GOVERNMENT OF INDIA
FINANCE
LOK SABHA

UNSTARRED QUESTION NO:171
ANSWERED ON:18.02.2009
RELIANCE ENERGY LTD
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Will the Minister of FINANCE be pleased to state:

(a) whether the Reliance Infrastructure Ltd. (erstwhile Reliance Energy Ltd.) has misused its External Commercial Borrowings (ECB)/ Foreign Currency Convertible Bonds (FCCB) proceeds by parking them with mutual funds and then repatriating the money abroad for joint venture company;

(b) if so, the details thereof;

(c) whether mis-utilisation of ECB / FCCB is a violation of the relevant provisions of Foreign Exchange Management Act (FEMA) and ECB guidelines;and

(d) if so,the action taken or proposed to be taken against Reliance Infrastructure Ltd.for violation of FEMA,ECB and RBI guidelines and other related laws?

Answer

MINISTER OF THE STATE IN THE MINISTRY OF FINANCE (SHRI PAWAN KUMAR BANSAL)

(a) and (b): As reported by RBI,

(i) M/s Reliance Energy Limited − now known as Reliance Infrastructure Ltd (RIL) raised an ECB of USD 360 million in July 2006 under the Automatic Route. The entire amount was drawn down on November 15,2006 and parked overseas with the UBS,London.On April 26,2007, out of USD 360 mn,USD 300 mn (Rs.1265.87 crore) was brought into India and kept invested in debt mutual funds, pending utilization for the declared end-use. The company remitted in March 2008 an amount of USD 500 million (including the proceeds of USD 300 million brought into India) towards investment in an overseas subsidiary.

(ii) RIL had also availed of ECB of USD 150 million under the Approval Route and the entire amount was drawn down and brought into India,in November 2006.From the monthly ECB 2 returns, it was observed that the company was regularly utilizing some portion of the ECB proceeds for the declared end-use, placing the balance in fixed deposits/ debt mutual funds,pending utilization.

(c): Yes, Sir,

(d): As per ECB guidelines,then in force, the ECB proceeds were required to be parked overseas until actual requirement in India.Further, utilization of ECBs proceeds is not permitted for investment in the capital market.Hence,based on the above facts,on the compounding application of the company for the contraventions relating to the ECB of USD 360 mn.,a compounding order was passed by RBI in terms of Foreign Exchange (Compounding Proceedings) Rules,2000 and a penalty of Rs. 124.68 crore was levied on the company. However, RIL did not pay the penalty and submitted a revised application dated August 25,2008, seeking compounding of the contraventions involved in both the ECBs of USD 360 mn and of USD 150 mn. The compounding application was not found to be in order was returned to the applicant on September 30, 2008.RIL was given an option to make separate application for compounding the contraventions relating to the second ECB but the company did not approach the RBI thereafter. Therefore RBI referred the FEMA violations relating to the two ECBs to the Directorate of Enforcement on November 7, 2008 for necessary action.